

U.S. Application No. 09/758,173  
Preliminary Amendment dated November 26, 2003  
Responsive to the Office Action of May 27, 2003  
Attorney ref. no. 037003-0276603

## II. REMARKS

### Status Summary

At the time the final office action was mailed on May 27, 2003, claims 21 and 23-37 were pending, and claims 1-20 and 22 were previously canceled. The final office action withdrew the previous rejections of claims under 35 U.S.C. § 112, first and second paragraphs, and requested that the title and abstract be re-written to reflect the subject matter of the claims, and the status of related applications in the first line of the specification be updated. The final office action maintained the rejection of claims 21, 25, 27-31, and 33-36 under 35 U.S.C. § 103(a) as allegedly being unpatentable in view of the documents of record.

### Preliminary Remarks:

Claims 21, 25, 27-31, and 33-36 are canceled without prejudice, and claims 23, 24, 26, 32, and 37 are amended. The title, abstract, and first line of the specification are amended as requested in the final office action. Reconsideration of the application is respectfully requested based on the amendments and remarks herein.

With respect to priority information, applicants note that a preliminary amendment was made to identify the instant application as a division of Application No. 09/383,916, filed August 26, 1999, which is a divisional of Application No. 08/487,550, filed June 7, 1995. The priority claim is further updated to denote that the '550 application has now issued as U.S. Patent No. 6,113,898.

Claims 26 and 32 are re-written in independent form. Claims 23, 24, 26, and 32 are amended by replacing the antigen term "B7.1" with the term "CD80," following current nomenclature used in the art. See page 5, line 28, of the application for support for this substitution. Claims 23, 32, and 37 are further amended by re-writing the term "variable sequences" as "variable region sequences," which the applicants believe is the more precise term. The term "variable region" is used numerous times in the specification; e.g., at page 27, line 8.

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**Patentability Remarks:**

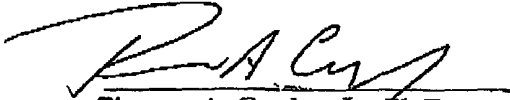
**35 U.S.C. § 103(a)**

Claims 21, 25, 27-31, and 33-36 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 5,304,635 to Imam et al. in view of Delabie et al. (1993) *Blood* 82:2845-52 and/or Munro et al. (1994) *Blood* 83:793-98, and/or Falini et al. (1992) *Lancet* 339:1195-96. Official action, pages 3-4, item 8. However, the final office action stated that claims 23, 26, 32, and 37 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. Official action, page 5, item 9. Claims 23, 26, and 32 have been amended by re-writing them in independent form, and include the limitations of claim 21. Claims 24 and 37 are dependent on claims 23 and 32, respectively. As noted above, claims 21, 25, 27-31, and 33-36 are canceled without prejudice; and the applicants affirm their right to submit and pursue claims directed to the subject matter of these claims in a continuation application. Withdrawal of the rejection under 35 U.S.C. § 103(a) is respectfully requested.

**Conclusion**

All rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and a notice to that effect is earnestly solicited. If any points remain in issue, which the examiner feels may be best resolved through a personal or telephone interview, he is kindly requested to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,  
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